

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

MEMORANDUM

TO: Water Pollution Control Board

**FROM: Indiana Department of Environmental
Management**

Office of Water Management

DATE: May 10, 2000

**SUBJECT: Rulemaking Timeline for Izaak
Walton League Petition to designate 17 Water
Bodies as Exceptional Use Waters**

Background On April 12, 2000 the Water Pollution Control Board (WPCB) conducted a public meeting on the Izaak Walton League petition to designate 17 water bodies as exceptional use waters. The purpose this meeting was to hear evidence as to whether this petition should move forward to a rulemaking (IC 13-14-8-5). The WPCB directed the agency to put together a rulemaking timeline for this petition. This timeline titled Rulemaking Timeline for the Izaak Walton League Petition to designate 17 Water Bodies as Exceptional Use Waters, in addition to two other rulemaking timelines regarding [SEA 431](#) are enclosed. The additional timelines, one titled Rulemaking Timeline for Antidegradation Implementation Procedures, and the other titled Rulemaking Timeline for Redesignation of Exceptional Use Waters as OSRWs (Outstanding State Resource Waters), were included because the Antidegradation, and exceptional use designations issues dealt with in [SEA 431](#) are closely tied to this petition.

Rulemaking Timeline for the Izaak Walton League Petition to designate 17 Water Bodies as Exceptional Use Waters This timeline is a conservative estimate of the time it will take and elements needed for a rulemaking. There are two variables that could affect this timeline. One is the number and location of the public meetings, and two is the assessment of the water bodies for exceptional use designation. Regarding assessment, there is concern that the requisite assessments of these water bodies for exceptional use designation per 327 IAC 2-1-10, are in conflict with the Office of Water's monitoring workplan for 2000.

Rulemaking Timeline for Antidegradation Implementation Procedures This timeline is an estimate of time it will take and the elements needed for the Antidegradation implementation rulemaking required in [SEA 431](#).

As part of this rulemaking, procedures that prevent degradation must be established. [SEA 431](#) changed the definition of degradation. Before [SEA 431](#), waters designated for exceptional use shall be maintained without degradation (327 IAC 2-1-7 (i)). [SEA 431](#) (IC 13-18-3-2 (b)) changed degradation to mean:

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(b) ~~A~~Degradation means, with respect to a National Pollutant Discharge Elimination System permit, the following:

With respect to an outstanding national resource water, any new or increased discharge of a pollutant or a pollutant parameter, except for a short term, temporary increase.

With respect to an outstanding state resource water or an exceptional use water, any new or increased discharge of a pollutant or pollutant parameter that results in a significant lowering of water quality for

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that
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or
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2-1-2(1)
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2-1.5(a)
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the
applicable
requirements
of
327
IAC
2-1-2
(1)
and
(2)
and
327
IAC
2-1.5-4(a)
and
(b).

As a result of [SB SEA 431](#) any waters designated as exceptional use are treated the same as OSRWs with Antidegradation criteria that needs to be established in this rulemaking.

Rulemaking Timeline for Redesignation of Exceptional Use Waters as OSRWs [SB SEA 431](#) requires that a process for designating water bodies as OSRWs be established taking into consideration factors listed in IC 13-18-3-2 (h) which include:

Economic impact
analyses, presented

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by any interested party, taking into account future population and economic development growth.

The biological criteria scores for the water body, using factors that consider fish communities, macro invertebrate communities, and chemical quality criteria using representative biological data from the water body under consideration.

The level of current urban and agricultural development in the watershed.

Whether the designation of the water body as an outstanding state resource water will have a significant adverse effect on future population, development, and economic growth in the watershed, if the water body is in a watershed that has more than three percent (3%) of its land in urban land uses or serves a municipality with a population greater than five thousand (5,000).

Whether the designation of the water body as an outstanding state resource water is necessary to protect the unique or special ecological, recreational, or aesthetic significance of the water body.

Section 27 of SEA 431 also provides ~~The SB also includes~~ that all water bodies designated as exceptional use waters ~~prior to October 1, 2002 (SB 431-eite)~~ be evaluated to see whether they meet the OSRW criteria.

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Recommendation If the WPCB decides to move forward with this petition into a rulemaking, the agency recommends that this petition be folded into the rulemaking for redesignation of exceptional use waters as OSRWs. As part of this rulemaking existing exceptional use waters will be evaluated according to the OSRW considerations set forth in [SB-SEA 431](#) and any additional criteria as established in this rulemaking. Therefore the 17 water bodies being proposed in this petition could be evaluated in conjunction with the existing exceptional use waters.